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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,414	04/05/2001	Hans Josef Rinninger	31530-171041	5027

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[REDACTED] EXAMINER

ADDIE, RAYMOND W

ART UNIT	PAPER NUMBER
3671	

DATE MAILED: 08/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application N .	Applicant(s)
	09/826,414	RINNINGER, HANS JOSEF
	Examiner Raymond W. Addie	Art Unit 3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 02 August 2002.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-8,11 and 12 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-8,11 and 12 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 10, 11 have been renumbered 11, 12.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 6, 8, 11, 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Scheiwiller # 5,533,827.

Scheiwiller discloses a paving stone (1) molded from concrete for use in a ground covering. Said paving stone comprising:

A cubical shape with planar or tapered side walls, and upper and lower faces (16,10). Said faces having rounded off edges over a substantial area extending toward at least one side edge of said cube. See col. 5, lines 25-64.

Art Unit: 3671

In regards to Claims 5, 6, 8, 11 Scheiwiller discloses the rounded portion of the paving stones can be uniformly rounded or rounded at an increasing or decreasing rate, such as a clothodial curve. See col. 5, lines 55-64.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Streator # 1,636,114 in view of Rinninger # 4,572,699.

Streator discloses a molded block (1) for a paving stone covering made of concrete. Said paving stone (1) having approximately the shape of a cube, and having substantially planar faces. What Streator does not disclose is providing the paving stone with rounded edges. However, Rinninger teaches a paving stone (12) having planar side and top surfaces as well as clothodial -type, rounded edges. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the paving stone of Streator, with rounded edges, as taught by Rinninger, in order to provide a means to drain surface water from the top surface of the paving stone. See Streator Figs. 1, 3 col. 1, lines 42-52; Rinninger '699 col. 3, line 52- col. 4, line 4.

In regards to Claim 7 Streator discloses a cubic paving stone with sharp edges. See Fig. 1.

4. Claims 1, 2, 5-8, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over McClintock # 957,985 in view of Rinninger # 4,752,699.

McClintock discloses a cube shaped paving stone made of concrete and having sharp edges and planar faces, all of which could be used as an upper, horizontal face during application. See col. 1, lines 44-45. What McClintock does not disclose is providing the paving blocks with rounded edges. However, Rinninger '669 teaches a paving stone having planar sides and rounded, clothodial edges. Said clothodial edges enhancing the natural appearance of the paving blocks. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide paving block of McClintock, with rounded edges, as taught by Rinninger '699, in order to provide a more natural appearance to the blocks. See Rinninger col. 1, line 58-col. 2, line 23.

In regards to Claim 2 McClintock discloses the block has planar sides , all of which could be used as an upper, horizontal face during installation. See col. 1, lines 44-45.

In regards to Claims 5-8, 12 McClintock discloses essentially all that is claimed, to include sharp edges on the block between planar faces. What McClintock does not disclose is the use of rounded, clothodial edges between planar faces. However, Rinninger teaches it is desirable to provide a paving stone with clothoid type rounded edges, in order to enhance the appearance of the blocks. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the paving stone of McClintock, with rounded edges as taught by Rinninger, in order to enhance the appearance of the blocks. See Rinninger col. 4, lines 23-30.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over McClintock in view of Rinninger '699, as applied to claim 1 above, and further in view of Scheiwiller # 4,627,764.

McClintock in view of Rinninger discloses essentially all that is claimed, except for using stones of specific sizes. However, Scheiwiller teaches that it is desirable to use a plurality of different sized stones together, in order to provide a plurality of different designs or patterns. Rinninger teaches using a standard cubic stone (1) See Fig. 1 and an oblong shaped stone (10) See fig. 6, having a height and width equal to that of the standard stone and having a length dimension twice the length of the standard stone. Said 2<sup>nd</sup> molded block can be rotated through 90-1800 about its longitudinal axis during laying with a constant clock height.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the paving stone covering of McClintock in view of Rinninger, with a 2<sup>nd</sup> block, being 2L of the 1<sup>st</sup> block, as taught by Scheiwiller '764, in order to provide a variety of designs and patterns. See Scheiwiller col. 2, lines 25-40.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over McClintock in view of Rinninger '699 as applied to claim 1 above, and further in view of Rice # 3,008,256.

McClintock in view of Rinninger discloses essentially all that is claimed, except for providing additional blocks of specific sizes. However, Rice discloses it is desirable to provide a paving element, such as a tile or block, with a plurality of score lines, so that the paving element may be cut to different sizes and shapes. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the paving stones of McClintock in view of Rinninger, with a plurality of score lines, as taught by Rice, in order to make paving elements of a variety of sizes and shapes so that different patterns and designs can be formed. See Rice, col. 2.

#### ***Response to Arguments***

7. Applicant's arguments filed 8/2/2002 have been fully considered and they are persuasive in overcoming the rejections of the Last Office Action. Hence, the rejections of the Last Office Action are withdrawn in favor of the New Grounds of Rejection.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Addie whose telephone number is (703) 305-0135. The examiner can normally be reached on Monday-Friday from 8:00 am to 2:00 pm, 6-8 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703) 308-3870. The fax phone number for this Group is (703) 305-8623.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.



Thomas B. Will  
Supervisory Patent Examiner  
Group 3600

RWA  
8/19/2002